

A.G. Contract No.: KR04-0105TRN
ADOT ECS File No.: JPA 03-110
Project: Agua Fria Freeway (SR 101L)
Section: Maryland Avenue Bridge Scoping)
TRACS Nos.: H6493 01L / H6493 02D
BUDGET SOURCE ITEM # City Funds
City Clerk Number: C-4941

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF GLENDALE

THIS AGREEMENT is entered into 2nd March, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF GLENDALE, acting by and through its CITY MANAGER (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 and City Charter, Article 1, Section 3 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The City desires to fund the Pre-Design concept study and environmental determination for the addition of a new bridge crossing and cross road of SR 101L at Maryland Avenue, at an estimated cost of \$200,000.00, herein referred to as the "Project", as a City funded Project. The purpose of this agreement is to define each party's responsibility associated with the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26697
Filed with the Secretary of State
Date Filed: 03/02/04

Janice K. Brewer
Secretary of State

By: David D. Starnes

II. SCOPE OF WORK

1. The State will:

a. By execution of this agreement, agree to be the authorized agent for and on behalf of the City, will retain and contract with Pre-design, Environmental and Design Consultants (the "Consultants"), to prepare pre-design concept studies and all necessary documents including Scoping Documents, Environmental Determination (ED), including identification of Clean Water Act Section 404 Permits requirements and issues, but not limited to Cultural Resource Surveys and studies associated with the addition of a new bridge and cross road.

b. Upon execution of this agreement, invoice the City \$200,000.00 for the estimated cost to complete the Project, which includes a fixed cost/lump sum of \$10,000.00 for the State's design and review administration fee, as shown on Exhibit "A1". The State will administer the Consultants and make all payments to the Consultants, confer with the City on any Pre-Design and Environmental Consultant(s) related contract modifications and be responsible for any Pre-Design and Environmental Consultant(s) claims for extra compensation attributable to the State.

c. Upon Receipt of the \$200,000.00, issue a Notice to Proceed (NTP) to the Consultants associated with the Project.

d. Provide the City the initial Scoping Document and Final Plans prepared at intermediate stages for review and comment. Incorporate the City's comments in preparation and provide the final documents.

e. Provide all required coordination with Federal Highway Administration (FHWA) and other agencies affected in association with the addition of new features including required approvals, as appropriate to this effort.

f. Upon completion of the final documents, will invoice or reimburse the City any difference between the initial estimated amounts paid by the City and the actual costs associated with the preparation of the final documents inclusive of all Environmental Determination efforts.

g. Upon approval of the documents by the State, determine whether to amend this agreement to include the final design and construction costs, to be funded by the City and/or the State for the development of the construction project to add the new features.

h. Coordinate with City upon the City's and/or State's availability of funding, to initiate a separate agreement to address the terms and details for scheduling, funding, construction and maintenance responsibilities for the construction of the new features referenced in this Project.

2. The City will:

a. By execution of this agreement, hereby designate the State as authorized agent for and on behalf of the City, to retain and contract Consultants to prepare pre-design concept studies, and all necessary documents including Scoping Documents, Environmental Determination (ED), including identification of Clean Water Act Section 404 Permits requirements and issues, but not limited to Cultural Resource Surveys and studies associated with the addition of a new bridge and cross road.

b. Upon execution of this agreement, and within 30 days of receipt of an invoice, remit \$200,000.00 to the State, for the estimated cost to complete the Project, which includes a fixed cost/lump sum of \$10,000.00 for the State's design and review administration fee, as shown on Exhibit "A1".

c. Review and provide written comments to the State, within 15 days of receipt, of the initial Scoping Document and any preliminary stage of design. Be responsible for any Pre-Design and Environmental Consultant(s) claims for extra compensation attributable to the City.

d. Reimburse the State, in the event the actual cost of the Project exceeds the estimated cost paid by the City, within 30 days after receipt of invoice for the actual costs associated with the Project, including any additional costs for the State's design and review administration fee, in excess of the amount included with the estimated Project costs.

e. Upon approval by the State of the documents, and with the coordination with the State, determine whether to amend this agreement to allow for City and/or State funding of the final design efforts necessary for a construction project to add the new features to the SR 101L freeway.

f. Coordinate with the State, upon the City's and/or State's availability of funding to initiate a separate agreement to address the terms and details for scheduling, funding, construction and maintenance responsibilities for the construction of the new features referenced in this Design Project.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of the work contemplated herein and all reimbursements; provided, however, this agreement may be cancelled at any time prior to the advertisements of pre-design and environmental consultants, with thirty days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

6. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518 or 12-1518(B) as appropriate.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract Issues:

Arizona Department of Transportation
Joint Project Administration

City of Glendale
Transportation Director's Office

205 South 17 Avenue, MD 616E
Phoenix, AZ 85007
FAX: (602) 712-7424

5850 West Glendale Avenue
Glendale, AZ 85301
FAX: (623) 915-1029

For Billing Issues:

Arizona Department of Transportation
Cost Accounting
206 South 17 Avenue, MD 204B
Phoenix, AZ 85007
FAX: (602) 712-8471

City of Glendale
Finance
5850 West Glendale Avenue
Glendale, AZ 85301
FAX: (623) 915-2827

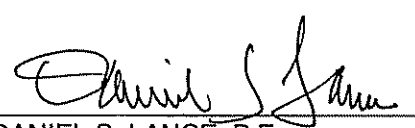
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF GLENDALE, a Municipal
Corporation, Ed Beasley, City Manager


By 
ED BEASLEY
City Manager

STATE OF ARIZONA
Department of Transportation

By 
DANIEL S. LANCE, P.E.
Deputy State Engineer

By 
PAMELA HANNA
City Clerk

Approved as to Form

By 
Rick Flaaen
City Attorney

**Exhibit A1
(JPA 03-110)**

**SR 101L, Maryland Ave Bridge and Cross Road
Pre-design Scoping Document/Environmental Determination
Cost Estimate**

Engineering/Design H649301L	\$140,000
Environmental Determination H649302D	\$50,000
ADOT Administration (Fixed cost) H6493S1D and H6493K1D	<u>\$10,000</u>
Total Estimated Costs	\$200,000



Arizona Department of Transportation
Intermodal Transportation Division
205 South Seventeenth Avenue, MD 616E
Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

Victor M. Mendez
Director

January 28, 2004

Bill Higgins
Engineer

Mr. Mark Poppe, Project Manager
City of Glendale
5850 West Glendale Avenue
Glendale, AZ 85301

Reference -

ADOT ECS File No.: JPA 03-110
Project: Agua Fria Freeway (SR 101L)
Section: Maryland Avenue Bridge (Scoping)
TRACS Nos.: H6493 01L / H6493 02D
BUDGET SOURCE ITEM # City Funds
City Clerk Number: C-4941

Dear Mr. Poppe:

THIS SUPPLEMENT, to the AGREEMENT between the State and the City, referenced herein, is modified to more accurately clarify the intent of the parties, as expressed in the attached AGREEMENT. The AGREEMENT was approved by City Council on 14 October 2003 and signed by the City prior to clarification, as provided in this SUPPLEMENT.

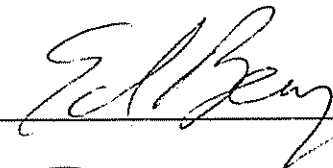
THEREFORE, by signature to this SUPPLEMENT, the parties acknowledge the inclusion of Article II.2.e., and replace Articles e. and f. with Articles f. and g. respectfully


ARTICLE II.2.e

e. Should the City withdraw its proposed plans for whatever reason, be responsible for all costs incurred by the State up to the time of withdrawal, unless the reason for the City's cancellation is due to the State's failure to comply with its obligations herein

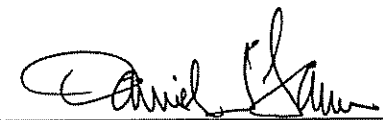
Upon concurrence and signature by the City, return the original document and all attachments to the attention of Ms. Lynn Grandy, Joint Project Administrator, for the Department at the address referenced above. Upon completion of the State's signatures and filing with the Secretary of State, a copy will be sent to your attention by return mail.

Concurrence of the City

BY 

ATTEST: 
City Clerk

Concurrence of the State

BY 
DANIEL S. LANCE, P.E.
Deputy State Engineer



RESOLUTION NO. 3708 NEW SERIES

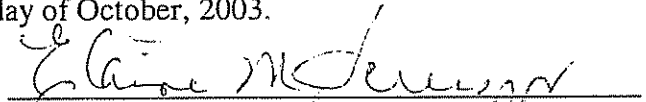
A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE LOOP 101/MARYLAND AVENUE BRIDGE DESIGN CONCEPT AND ENVIRONMENTAL STUDIES.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

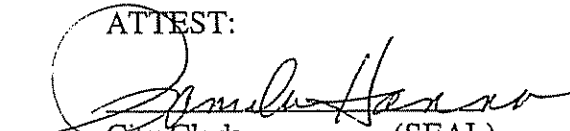
SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the Intergovernmental Agreement between the City of Glendale and the Arizona Department of Transportation (**JPA 03-110**) be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said agreement on behalf of the City of Glendale.

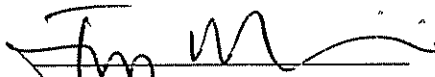
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 14th day of October, 2003.


MAYOR

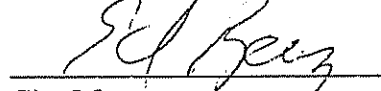
ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

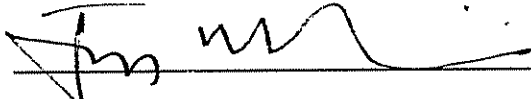
REVIEWED BY:


City Manager

APPROVAL OF THE CITY OF GLENDALE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF GLENDALE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 6th day of February, 2004.



City Attorney



TERRY GODDARD
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TRANSPORTATION SECTION
WRITER'S DIRECT NO: 602.542.8837

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-0105-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

Date: 23 February 2004

Terry Goddard
ATTORNEY GENERAL

A handwritten signature in dark ink, appearing to read "James R. Redpath", is written over a horizontal line.

James R. Redpath
Assistant Attorney General
Transportation Section

JRR:djd:780214